

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

WP(C).No. 29048 of 2007(G)

PETITIONER:

BHARATH SANCHAR NIGAM LTD.,
REPRESENTED BY THE DIVISIONAL ENGINEER,
VATTAPARA TELEPHONE EXCHANGE, TRIVANDRUM.

BY ADV. SRI.C.S.RAMANATHAN, SC, BSNL

RESPONDENTS:

1. EXECUTIVE ENGINEER,
MAJOR SECTION, KSEB, KAZHAKUTTOM, TRIVANDRUM.
2. ASSISTANT ENGINEER (ELECTRICAL MAJOR
SECTION), NALACHIRA.
3. ASSISTANT ENGINEER,
ANTI POWER THEFT SQUARD, TRIVANDRUM.

BY SRI.P.P.THAJUDEEN, SC, K.S.E.B

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE MAHAZAR DATED 28/07/2007 ISSUED BY 3RD RESPONDENT.

P2 : COPY OF THE BILL DATED 28/07/2007 ISSUED BY KSEB.

P3 : COPY OF REPRESENTATION DATED 16/08/2007 ADDRESSED TO RESPONDENTS.

P4 : COPY OF THE BILL DATED 07/09/2007 ISSUED BY THE KSEB.

P5 : COPY OF THE LETTER DATED 11/09/2007 ADDRESSED to the RESPONDENT.

P6 : COPY OF THE NOTICE DATED 24/09/2007 ISSUED BY THE RESPONDENTS.

// TRUE COPY //

PA TO JUDGE.

jg

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 29048 of 2007

Dated, this the 10th day of December, 2007

J U D G M E N T

This writ petition is filed against disconnection of electricity supply to the telephone exchange operated by BSNL. Pursuant to interim order issued by this Court, learned standing counsel produced the order issued by the Assistant Engineer finalising the proposed demand issued based on the findings of APTS during their inspection. If the allegation that one phase of the meter was not working is correct, then the proposed additional bill is justified. However, learned counsel for the petitioner submits that even after connecting all the phases, the bills are the same as received by the BSNL for the period prior to detection of the problem by APTS. If the bill amount is the same, even after replacement of the meter after inspection, then petitioner's denial of allegation that one phase of the meter was not working may be true. In the circumstances, and since appeal is provided under Section 127 against the bill so finalised by the Assistant Engineer, this writ petition is disposed of directing the petitioner to file appeal before the Deputy Chief Engineer, Electrical Circle, Thiruvananthapuram (Urban) within a period of one month from the date of receipt of a copy of this

judgment. If appeal is filed, the Deputy Chief Engineer will call for the subsequent bills after replacement of the meter and verify the genuineness of the allegation and pass appropriate orders. The Deputy Chief Engineer should pass interim orders regarding the amount payable by the petitioner under the disputed bill for maintainability of appeal and for stay within a period of two weeks from the date of filing of appeal. The appeal also should be disposed of without any delay. Interim orders against disconnection of electricity supply will continue for a period of two months from now. In between, the Deputy Chief Engineer should have passed interim orders for payment or final orders in the appeal. Recovery or disconnection will be made only if petitioner commits default in making payment in terms of the Deputy Chief Engineer's order. Since Deputy Chief Engineer is given freedom to fix the amount payable by the petitioner, there will be direction to the Deputy Chief Engineer not to insist on payment of more than 50% as a condition for maintainability of appeal. In other words, it is for him to fix the amount payable after examining the correctness of the matter, prima facie.

(C.N.RAMACHANDRAN NAIR, JUDGE)